The leading case is in accord with the rule allowing a general homicidal intent to be shown when it has an obvious bearing on consequential acts. *Ford v. State,* 71 Ala., 385; *State v. Windahl,* 95 Ia., 470; *Hopkins v. Comm.,* 50 Pa. St., 9. It follows that the same rule is applicable when the threat is directed against an entire family or class of persons *Palmer v. People,* 138 Ill., 356; *State v. Hunt,* 128 N. C., 584. But where the accused asserted two weeks before the homicide that he intended to emulate his parent and "kill his man" it was held incompetent to show malice. *Comm. v. Matthews,* 89 Ky., 287. Threats to kill someone within twenty-four hours are evidence of malice *prepense. Hopkins v. Comm.,* 50 Pa., 9; and declarations of a defendant that he felt like killing someone are admissible to show his frame of mind. *Muscoe v. Comm.,* 87 Va., 960. Statements of a person that he would kill anyone attempting to arrest him are admissible in behalf of an officer prosecuted for homicide. *Harris v. State,* 72 Miss., 99; but the evidence tending to indicate mere prejudice is properly excluded. *State v. Wise,* 33 S. C., 582. The admissibility of evidence of threats is not affected by the nearness or remoteness of the date of the commission of the threatened crime. *State v. McNally,* 87 Mo., 644; nor does the fact that threats were made indirectly or by innuendo make proof of them irrelevant. *State v. Tarter,* 26 Or., 38; but in all cases the threat must be capable of being construed against the person finally attacked. *Henson v. State,* 120 Ala., 316; *People v. Farley,* 124 Cal., 594.

HUSBAND AND WIFE—SEPARATE MAINTENANCE—JURISDICTION OF EQUITY—MCCADDIN V. MCCADDIN, 82 ATL., 554 (MD.).—*Held,* that a court of chancery has power to entertain an application by a wife against her husband for alimony, though she does not ask for a divorce.

It has been well established in England that even ecclesiastical courts—as well as courts of equity and law—will award alimony only as incidental to some other proceeding, as, commonly, divorce. *Ball v. Montgomery,* 2 Ves. Jr., 191; *Duncan v. Duncan,* 19 Ves., 394. This doctrine is followed in most American jurisdictions. *Shannon v. Shannon,* 2 Gray, 285; *Moon v. Baum,* 58 Ind., 194; *McIntire v. McIntire,* 80 Mo., 470. There is, however, considerable American authority—emanating, apparently, from an extraordinary provision inserted in the commissions of the English judges of equity at the time of Cromwell—which deems it an inherent power of equity to grant alimony—but not divorce—where alimony alone is sought. *Pearce v. Pearce,* 132 Ala., 221; *Butler v. Butler,* 4 Littell, 201; *Bishop on Marriage and Divorce,* Vol. 2, Sec. 353. This authority has been conferred by statute upon many of the jurisdictions which formerly denied its existence, and in other jurisdictions its existence has been confirmed. *Bigelow v. Bigelow,* 120 Mass., 320; *Harding v. Harding,* 144 Ill., 588. In England, too, right to bring an independent action for alimony has been provided for by a series of statutes extending the powers of courts of summary jurisdiction. *Summary Jurisdiction (Married Women) Act,* 58 & 59 Vict., c. 39. For what causes this relief will be granted where the authority to administer it is acknowledged, is most uncertain. Roughly,

causes of sufficient gravity to enable a wife to maintain an action of divorce *a mensa et thoro,* will support an independent suit for alimony. *Hewitt v. Hewitt,* 1 Bland, 101; *Johnson v. Johnson,* 125 Ill., 510. Yet it has been held that even adultery will not sustain such a suit. *Hair v. Hair,* 10 Rich. Eq., 163.

INFANTS—VALIDITY OF CONTRACTS—ESTOPPEL TO DENY—COUNTY BOARD OF EDUCATION V. HENSLEY, 144 S. W., 64 (KY.).—*Held,* that when an infant, by reason of his appearance, surroundings, and activities, coupled with a misrepresentation or fraudulent concealment, leads one, who deals with him in good faith and not knowing that he is an infant, to believe that he is of age, he will be estopped from maintaining an action to avoid his executed contract.

At common law and at law in England today, an infant is not estopped by any fraud of his own whereby he induced another to contract with him, from repudiating such a contract. *Bartlett v. Wells,* 1 B. & S., 836. The great preponderance of American authority holds that an infant is not estopped from setting up his infancy as a defense to an action on a contract, even though he secured the contract by falsely representing himself to be of age. *Bursley v. Russell,* 10 N. H., 184; *Merriam v. Cunningham,* 11 Cush., 40; *Sims v. Everhardt,* 102 U. S., 300. *Contra, Commander v. Brazile,* 88 Miss., 668. But where the infant, or late infant, is seeking affirmative relief from a conveyance or other executed contract which he has obtained by such fraudulent representations, many cases hold that he is estopped from basing his petition on the fact of his infancy. *Ryan v. Growney,* 125 Mo., 474; *Hayes v. Parker,* 41 N. J. Eq., 630. *Contra, Tobin v. Spann,* 85 Ark., 556. One who, with knowledge of the facts, receives and retains the proceeds of a sale made when he was an infant, has frequently been deemed to be estopped from alleging his infancy in a suit to set aside the sale. *Price v. Winter,* 15 Fla., 66; *Pursley v. Hays,* 17 Iowa, 310. On the other hand, it seems generally agreed that an estoppel is not created by mere failure to give notice of the fact of infancy. *Buchanan v. Hubbard,* 96 Ind., 1; *Thormaelen v. Kaeppel,* 86 Wis., 378. In a few States it is provided by statute that a contract cannot be disaffirmed where on account of an infant's misrepresentation the person dealing with him had reason to believe him legally capable of contracting. *Beickler v. Guenther,* 121 Iowa, 419; *Dillon v. Burnham,* 43 Kans., 77.

INJUNCTION—DISMISSAL—COSTS—ATTORNEY'S FEES.—MIDGETT V. VANN, 73 S. E., 801 (N. C.).—*Held,* that attorney's fees are not recoverable as costs for damages by defendant in an action for an injunction.

Counsel fees will be allowed for so much of the action as concerns the injunction. *High Inj.,* §§1688-1690; *Brown v. Jones,* 5 Nev., 374; *Derry Bank v. Heath,* 45 N. H., 524. *Contra, Ferguson v. Baker,* 24 Ala., 402; *Bullock v. Ferguson,* 30 Ala., 227. The leading case on this point is *Cook*